

REMARKS

Claim 8 is being amended to further particularly point out and distinctly claim what Applicant regards as the inventive subject matter, while claims 10, 12, and 14 are being cancelled without prejudice or disclaimer to the subject matter expressed therein.

The amendments presented herein do not introduce new matter within the meaning of 35 U.S.C. §132. Accordingly, the Examiner is respectfully requested to enter these amendments.

1. Rejection of Claims 8-11 and 13 Under 35 U.S.C. §102(b)

The Office Action states claims 8-11 and 13 are rejected under 35 U.S.C. §102(b) as being anticipated by DeNicola, Jr., et al. (U.S. Patent 5,286,791). In particular, the Office Action states,

DeNicola, Jr. et al. disclose an impact-modified graft copolymer composition to be used in an inject molding to make an article, comprising (A) 10-90 wt% of graft copolymer, (B) 90-10 wt% of at least one propylene polymer having a wide molecular weight distribution, and (C) 2-40 wt% of at least one rubber component, wherein the component B has a molecular weight distribution of 8-60 and a melt flow rate of 0.5-50 g/10 min; the component C can be an ethylene-propylene copolymer rubber having 30-70% ethylene content (abstract; col. 4, lines 25-31; col. 7, line 33, 46-48, and 62-63; Examples 1-5-especially line 9; claims 1 and 4). DeNicola, Jr. also disclose that the composition further comprises about 10-100 pph of a filler which can be talc, a calcium carbonate, and silicate (col. 3, lines 25-32; col. 10, lines 36-43). It is noted that the ethylene-propylene copolymer rubber reads on the partially xylene soluble olefin polymer rubber. Thus, the present claims are anticipated by the disclosure of DeNicola et al.

RESPONSE

With respect to the rejection of claim 10, Applicant has cancelled claim 10 without prejudice or disclaimer, thus rendering the rejection thereof moot.

With respect to the rejection of claims 8, 9, 11, and 13, Applicant respectfully traverses the rejection thereof.

As outlined in Applicant's previous response of April 17, 2007, for a reference to anticipate an invention, all of the elements of that invention must be present in the reference. The test for anticipation under section 102 is whether each and every element as set forth in the claims is found, either expressly or inherently, in a single prior art reference. *Verdegaal Bros. V. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Accordingly, Applicant respectfully believes U.S. Patent 5,286,791 (herein referred to as "DeNicola, Jr., et al.") does not disclose, teach, or suggest the currently claimed polyolefin composition, which comprises: (A) from 60 to 85% by weight of a broad molecular weight distribution propylene polymer having a polydispersity index from 5 to 15, and a melt flow rate of from 20 to 78 g/10 min according to ASTM-D 1238, condition L; and (B) from

15 to 40% by weight of a partially xylene-soluble olefin polymer rubber comprising at least 65% by weight of ethylene, wherein the polyolefin composition comprises a melt flow rate of from 5 to 20 g/10 min.

In fact, as discussed in Applicant's aforementioned response, DeNicola, Jr., et al. discloses an impact modified graft copolymer composition comprising, by weight: (A) from 10 to 90% of a graft copolymer of propylene polymer material having graft polymerized thereto one or more vinyl monomer(s); (B) from 90 to 10% of at least one broad molecular weight distribution propylene polymer material having a M_w/M_n of 8 to 60, a melt flow rate of 0.5 to 50, and a xylene insolubles at 25°C of greater than or equal to 94%; and (C) from 2 to 25% of at least one rubber component, wherein the total amount of (A)+(B)+(C) is 100%.

Therefore, Applicant respectfully believes DeNicola, Jr., et al. clearly relates to an impact modified graft copolymer composition comprising, in part, from 10 to 90% by weight of a propylene graft copolymer material, with the propylene graft copolymer material having one or more vinyl monomer(s) grafted thereto, and not to the currently claimed polyolefin compositions comprising from 60 to 85% by weight of a broad molecular weight distribution propylene polymer having a polydispersity index from 5 to 15 and a melt flow rate of from 20 to 78 g/10 min according to ASTM-D 1238, condition L; and from 15 to 40% by weight of a partially xylene-soluble olefin polymer rubber comprising at least

65% by weight of ethylene.

In particular, DeNicola, Jr., et al., clearly outlines the importance of the propylene graft copolymer material, and even states, "The present invention relates to compositions comprising a graft copolymer . . . in particular, to an impact modified graft copolymer composition comprising a graft copolymer of propylene polymer material. . . ." See col. 1, lines 8-16. As such, Applicant believes DeNicola, Jr., et al. clearly relates to an impact modified graft copolymer composition, with the impact modified graft copolymer composition comprising a graft copolymer of propylene polymer material, whereas the instant application relates to polyolefin compositions comprising from 60 to 85% by weight of a broad molecular weight distribution propylene polymer having a polydispersity index from 5 to 15 and a melt flow rate of from 20 to 78 g/10 min according to ASTM-D 1238, condition L; and from 15 to 40% by weight of a partially xylene-soluble olefin polymer rubber comprising at least 65% by weight of ethylene.

Additionally, Applicant respectfully believes DeNicola, Jr., et al. does not disclose, teach, or suggest Applicant's specifically claimed component (A) (i.e., from 60 to 85% by weight of a broad molecular weight distribution propylene polymer having a polydispersity index from 5 to 15 and a melt flow rate of from 20 to 78 g/10 min according to ASTM-D 1238, condition L).

In fact, DeNicola, Jr., et al. discloses a very broad range of impact modified graft copolymer compositions, with the impact

modified graft copolymer compositions comprising, in addition to the critical graft copolymer (i.e., component (A) of DeNicola, Jr., et al.), from 10% to 90% of a propylene copolymer material. Accordingly, Applicant respectfully believes the very broad, generic disclosure of the propylene copolymer material in DeNicola, Jr., et al. clearly does not anticipate Applicant's specifically claimed component (A), let alone the specifically claimed range of 60 to 85% by weight of component (A). In order to anticipate the claims, the claimed subject matter must be disclosed in the reference with "sufficient specificity to constitute an anticipation under the statute." See *Atofina v. Great Lakes Chem. Corp.*, 441 F.3d 991, 999, 78 USPQ2d 1417, 1423 (Fed. Cir. 2006), and MPEP §2131.03 (II).

Moreover, Applicant respectfully believes DeNicola, Jr., et al. does not disclose, teach, or suggest Applicant's specifically claimed polyolefin compositions comprising components (A) and (B), wherein the resultant polyolefin compositions comprises a melt flow rate of from 5 to 20 g/10 min. In fact, Applicant respectfully believes DeNicola, Jr., et al. is completely silent in this respect. The identical invention must be shown in as complete detail as is contained in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must also be arranged as required by the claim. *In re Bond*, 15 USPQ2d 1566 (Fed. Cir. 1990).

Accordingly, given DeNicola, Jr., et al. clearly relates to completely different compositions, Applicant respectfully believes the currently claimed polyolefin compositions are not anticipated.

In light of the above, claims 8, 9, 11, and 13 are therefore believed to be patentable over DeNicola, Jr., et al. As such, allowance of the claims is earnestly requested.

2. Rejection of Claim 12 Under 35 U.S.C. §103(a)

The Office Action states that claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over DeNicola, Jr., et al. (U.S. Patent 5,286,791). In particular, the Office Action states,

The rejection is adequately set forth in paragraph 9 of the Office Action dated 11/02/2006 and is incorporated herein by reference.

RESPONSE

Applicant has cancelled claim 12, without prejudice or disclaimer, thus rendering the rejection of claim 12 moot.

3. Rejection of Claim 14 Under 35 U.S.C. §103(a)

The Office Action states that claim 14 is rejected under 35 U.S.C. §103(a) as being unpatentable over DeNicola, Jr., et al. (U.S. Patent 5,286,791) in view of Herman (U.S. Patent 5,174,384). In particular, the Office Action states,

The rejection is adequately set forth in paragraph 10 of the Office Action dated 11/02/2006 and is incorporated herein by reference.

RESPONSE

Applicant has cancelled claim 14, without prejudice or disclaimer, thus rendering the rejection of claim 14 moot.

CONCLUSION

Based upon the above remarks, the presently claimed subject matter is believed to be novel and patentably distinguishable over the prior art of record. The Examiner is therefore respectfully requested to reconsider and withdraw all rejections and allow all pending claims 8, 9, 11, and 13. Favorable action with an early allowance of the claims pending in this application is earnestly solicited.

The Examiner is welcomed to telephone the undersigned practitioner with any questions or comments if it is believed such contact will expedite prosecution for this application.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on

January 15, 2008

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